

Applicants: GINZBURG, Boris  
Serial No.: 10/668,173

Attorney Docket No.: P-6065-US

### **REMARKS**

Applicant has carefully studied the Office Action. This paper is intended to be fully responsive to all points of rejection and objection raised by the Office Action and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

### **Status of the Claims**

Claims 1-27 are pending in the Application. Claims 1, 10, 19-22 and 25 have been amended.

### **Voluntary Amendment of Claims**

Applicant has amended claims 1, 10, 19-22 and 25 to more clearly define what the Applicant regards as the invention. No new matter has been added.

Specifically, claims 1 and 25 have been amended to recite, *inter alia*, estimating a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period.

Claims 10 and 19 have been amended to recite, *inter alia*, a processor to estimate a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period.

Claims 20 and 21 have been amended to depend from claim 19, instead of from claim 22.

Claim 22 has been amended to recite, *inter alia*, a wireless access point to estimate a number of active stations in said wireless communication system based on a number of stations from which transmissions are received during a pre-defined time period.

### **Claim Rejections Under 35 USC §112, Second Paragraph**

The Office Action rejected claims 20-21 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Applicants: GINZBURG, Boris  
Serial No.: 10/668,173

Attorney Docket No.: P-6065-US

Specifically, the Office Action contended that there is insufficient antecedent basis for the feature "The wireless communication device" recited in claims 20-21. The Office Action suggested that claims 20-21 be amended to depend from claim 19, instead of from claim 22.

Claims 20 and 21 have been amended to depend from claim 19, instead of from claim 22.

In view of the above, Applicant respectfully requests that the rejection of claims 20-21 under 35 USC §112, second paragraph, be withdrawn.

#### **Claim Rejections Under 35 USC §102(e)**

The Office Action rejected claims 1-3, 7-13, 17-18 and 22-27 under 35 USC §102(e) as being anticipated by Moutarlier, United States Patent Application Publication Number 2004/0028072 ("Moutarlier").

Applicants respectfully submit that in view of the foregoing amendment and the following remarks, the rejection of claims 1-3, 7-13, 17-18 and 22-27 under 35 USC §102(e) as being anticipated by Moutarlier should be withdrawn.

As is well established, in order for a claim to be anticipated by the prior art, each and every element and feature of the claim must be included in a single prior art document.

Each of amended independent claims 1 and 25 recites, *inter alia*, estimating a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier does not disclose, teach or suggest at least these features of amended independent claims 1 and 25. Therefore, Moutarlier does not anticipate independent claims 1 and 25, as amended.

Each of amended independent claims 10 and 19 recites, *inter alia*, a processor to estimate a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier does not disclose, teach or suggest at least these features of amended independent claims 10 and 19. Therefore, Moutarlier does not anticipate independent claims 10 and 19, as amended.

Amended independent claim 22 recites, *inter alia*, a wireless access point to estimate a number of active stations in said wireless communication system based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier does not disclose, teach or suggest at least these features of amended independent claim 22. Therefore, Moutarlier does not anticipate independent claim 22, as amended.

Moutarlier describes that “the number of client devices concurrently attempting to access said network via said intermediary network access device is first determined”. This description is repeated in Moutarlier numerous times, for example, in the Abstract, in paragraph 0005, in paragraph 0010, in paragraph 0023, in paragraph 0024, and in paragraph 0025.

In contrast, each of amended independent claims 1, 10, 19, 22 and 25 recites, in paraphrase, estimating a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period.

Applicant would like to point out that at least three distinctions exist between the above-mentioned description in Moutarlier, and the above-recited feature of amended independent claims 1, 10, 19, 22 and 25 of the Application.

First, Moutarlier determines the number of devices that concurrently attempt to access the network; whereas the estimation recited in independent claims 1, 10, 19, 22 and 25 of the Application is based on a number of stations from which transmissions are received during a pre-defined time period.

Second, Moutarlier determines the number of devices that attempt to access the network through an intermediary network access device; whereas the estimation recited in independent claims 1, 10, 19, 22 and 25 of the Application is based on a number of stations from which transmissions are actually received.

Third, Moutarlier determines the number of devices that concurrently attempt to access the network through an intermediary network access device; whereas the estimation recited in independent claims 1, 10, 19, 22 and 25 of the Application is based on a number

Applicants: GINZBURG, Boris  
Serial No.: 10/668,173

Attorney Docket No.: P-6065-US

of stations from which transmissions are received. In other words, in a network that includes a set of stations, Moutarlier measures a first subset of the stations, namely, stations that attempt to access the network through the intermediary network access device; whereas the estimation recited in independent claims 1, 10, 19, 22 and 25 of the Application is based on a second, different, subset of the stations, namely, stations from which transmissions are received.

In view of the above, Applicant respectfully submits that each of amended independent claims 1, 10, 19, 22 and 25 meets the novelty requirements of 35 USC §102(e).

Applicant respectfully submits that the above-mentioned distinctions of amended independent claims 1, 10, 19, 22 and 25 would not have been obvious at the time the invention was made to a person having ordinary skill in the art, in view of any of the references on record, alone or in combination. Therefore, while the Office Action has not made such a rejection, Applicant respectfully submits that amended independent claims 1, 10, 19, 22 and 25 meet the patentability requirements of 35 USC §103.

Claims 2-3 and 7-9, claims 11-12 and 17-18, claims 23-24, and claims 26-27 are dependent from amended independent claims 1, 10, 22 and 25, respectively, and include all the features of these independent claims as well as additional distinguishing features. Therefore, it is respectfully submitted that the novelty and patentability of claims 2-3 and 7-9, claims 11-12 and 17-18, claims 23-24, and claims 26-27 follow directly from the novelty and patentability of amended independent claims 1, 10, 22 and 25, respectively.

In view of the above, Applicant respectfully requests that the rejection of claims 1-3, 7-13, 17-18 and 22-27 under 35 USC §102(e) as being anticipated by Moutarlier be withdrawn.

#### **Claim Rejections Under 35 USC §103(a)**

The Office Action rejected claims 4-6 and 14-16 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Liu et al., United States Patent Application Publication Number 2004/0100936 ("Liu").

Without conceding the appropriateness of the combination, and without conceding that the combination renders claims 4-6 and 14-16 obvious, Applicant respectfully submits that in view of the foregoing amendment and the following remarks, the rejection of claims 4-6 and 14-16 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Liu should be withdrawn.

Claims 4-6 and claims 14-16 are dependent from amended independent claims 1 and 10, respectively, and include all the features of these independent claims as well as additional distinguishing features. Therefore, it is respectfully submitted that the novelty and patentability of claims 4-6 and claims 14-16 follow directly from the novelty and patentability of amended independent claims 1 and 10, respectively.

Amended independent claim 1 recites, *inter alia*, estimating a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier and/or Liu, alone or in combination, do not disclose, teach or suggest at least these features of amended independent claim 1. Therefore, Moutarlier and/or Liu, alone or in combination, do not render amended independent claim 1 obvious.

Amended independent claim 10 recites, *inter alia*, a processor to estimate a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier and/or Liu, alone or in combination, do not disclose, teach or suggest at least these features of amended independent claim 10. Therefore, Moutarlier and/or Liu, alone or in combination, do not render amended independent claim 10 obvious.

In view of the above, Applicant respectfully requests that the rejection of claims 4-6 and 14-16 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Liu be withdrawn.

The Office Action rejected claims 19-21 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Reece et al., United States Patent Application Publication Number 2005/0261027 ("Reece").

Applicants: GINZBURG, Boris  
Serial No.: 10/668,173

Attorney Docket No.: P-6065-US

Without conceding the appropriateness of the combination, and without conceding that the combination renders claims 19-21 obvious, Applicant respectfully submits that in view of the foregoing amendment and the following remarks, the rejection of claims 19-21 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Reece should be withdrawn.

Amended independent claim 19 recites, *inter alia*, a processor to estimate a number of active stations in a communication network based on a number of stations from which transmissions are received during a pre-defined time period. Moutarlier and/or Reece, alone or in combination, do not disclose, teach or suggest at least these features of amended independent claim 19. Therefore, Moutarlier and/or Reece, alone or in combination, do not render amended independent claim 19 obvious.

Claims 20-21 are dependent from amended independent claim 19, and include all the features of independent claim 19 as well as additional distinguishing features. Therefore, it is respectfully submitted that the novelty and patentability of claims 20-21 follow directly from the novelty and patentability of amended independent claim 19.

In view of the above, Applicant respectfully requests that the rejection of claims 19-21 under 35 USC §103(a) as being unpatentable over Moutarlier in view of Reece be withdrawn.

#### Conclusion

In view of the foregoing amendment and remarks, and for at least the reasons discussed above, Applicant respectfully submits that claims 1-27 are deemed to be allowable. Their favorable reconsideration and allowance are respectfully requested.

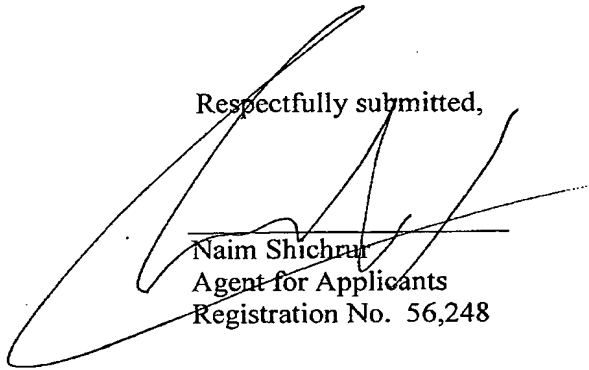
Should the Examiner have any question or comment as to the form, content or entry of this paper, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Applicants: GINZBURG, Boris  
Serial No.: 10/668,173

Attorney Docket No.: P-6065-US

No fees are believed to be due in connection with this paper. However, if any fees are in fact due in connection with this paper, please charge any such fees to deposit account No. 50-3355.

Respectfully submitted,



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